

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 1161 Traffic Offenses  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Evers and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 968

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Roads, Bridges & Ports Policy Committee	17 Y, 2 N	Brown	Miller
2)	Public Safety & Domestic Security Policy Committee	7 Y, 0 N, As CS	Padgett	Kramer
3)	Economic Development & Community Affairs Policy Council	14 Y, 0 N, As CS	Brown	Tinker
4)	Full Appropriations Council on General Government & Health Care			
5)				

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**SUMMARY ANALYSIS**

Currently, any person who commits a noncriminal moving violation that causes the death or serious bodily injury of another must appear in front of the court to dispose of the infraction. For a civil traffic infraction, the court may order a person to attend driver improvement school and to complete up to 120 hours of community service.

The bill provides a person who commits a noncriminal traffic infraction that results in the death or serious bodily injury of another person shall complete a minimum of 15 hours, and maximum of 120 hours, community service and an 8 hour driver improvement course.

The bill provides that the victim or the victim's next of kin are entitled to be informed, to be present, and to be heard at all crucial stages of a judicial hearing. The bill requires the state attorney, where applicable, to consult with the victim or victim's next of kin about the disposition of the case.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Moving Violations, Generally**

Under Chapters 316 and 318, all moving violations are considered non-criminal infractions and are generally punishable by a fine as provided by s. 318.18, F.S. Moving violations include such offenses as speeding, failure to stop at a stop sign or traffic control device, and improper lane change.<sup>1</sup> This section provides a baseline fine of \$60 for all moving violations,<sup>2</sup> although county-by-county fees and surcharges raise the total amount paid. The section also provides tiered fines from \$25 to \$250 for moving violations involving excessive speed.<sup>3</sup>

Moving violations also typically result in points assessed against an operator's driver's license pursuant to s. 322.27(3)(d), F.S.

##### **Penalties for Causing Death or Injury**

##### *Non-Criminal Violations*

A mandatory hearing before the court is required for any infraction or criminal violation of Chapter 316 that causes serious bodily injury or death.<sup>4</sup> Any person committing a traffic infraction causing death may be directed by a judge to perform 120 community service hours in a trauma center, pursuant to s. 316.027(4), F.S.<sup>5</sup>

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<sup>1</sup> See generally Ch. 316, F.S.

<sup>2</sup> Sec. 318.18(3)(a), F.S.

<sup>3</sup> Sec. 318.18(3)(b), F.S.

<sup>4</sup> Sec. 318.19(1)-(2), F.S.

<sup>5</sup> The permissive 120 hours of community service are referenced twice in Chapter 318:

**318.14(1), F.S.:** "If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. [316.027\(4\)](#), in addition to any other penalties."

**318.18(8)(c), F.S.:** "If the noncriminal infraction has caused or resulted in the death of another, the person who committed the infraction may perform 120 community service hours under s. [316.027\(4\)](#), in addition to any other penalties."

For any traffic infraction or criminal offense causing death, injury, or property damage, the Department of Highway Safety and Motor Vehicles (DHSMV) may require re-examination of the offender's ability to drive. DHSMV may subsequently suspend the offender's license.<sup>6</sup> DHSMV may suspend an offender's license if the person refuses to submit to a re-examination. Refusal to submit to retesting is grounds to suspend the offender's license.<sup>7</sup> The court may suspend the driver's license for any criminal violation.<sup>8</sup>

### *Criminal Violations*

For any criminal traffic offense causing death or an injury sufficient to require medical transport, the department shall mandate a driver-improvement course (in addition to any other applicable penalties). Failure to attend a driver improvement course results in cancellation of the offender's license until the course is completed.<sup>9</sup> If the criminal offense is murder, manslaughter, or a second DUI manslaughter conviction, the DHSMV shall revoke the offender's license.<sup>10</sup> License suspension for a manslaughter conviction may not be lifted unless the offender has completed a driver improvement or substance abuse program.<sup>11</sup>

A person who commits the offense of reckless driving causing injury or death commits a third-degree felony, punishable separately from fines related to reckless driving.<sup>12</sup> If the court reasonably believes alcohol was involved, the court shall order the offender to attend a substance abuse program.<sup>13</sup>

An impaired driver who causes an accident involving injury or death commits a third-degree felony, punishable separately from the potential fine and/or incarceration related to the DUI.<sup>14</sup>

A person driving without a valid license who negligently causes an accident involving death or serious bodily injury is guilty of a third-degree felony.<sup>15</sup>

### **Proposed Changes**

The bill provides a person who commits a noncriminal traffic infraction that results in the death or serious bodily injury of another person shall complete a minimum of 15 hours, and maximum of 120 hours, community service and an 8 hour driver improvement course.

The bill provides that the victim or the victim's next of kin are entitled to be informed, to be present, and to be heard at all crucial stages of a judicial hearing. The bill requires the state attorney, where applicable, to consult with the victim or victim's next of kin about the disposition of the case.

## **B. SECTION DIRECTORY:**

**Section 1** Amends s. 316.027, F.S., requiring community service and driver improvement courses for those persons causing crashes involving death or personal injury.

**Section 2** Amends s. 318.14, F.S., making a technical change to conform to Section 1.

**Section 3** Amends s. 318.18, F.S., making a technical change to conform to Section 1.

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<sup>6</sup> Sec. 322.221(2)(a), F.S.

<sup>7</sup> Sec. 322.221(3), F.S.

<sup>8</sup> Sec. 316.655(2), F.S.

<sup>9</sup> Sec. 322.0261(2), F.S.

<sup>10</sup> Sec. 322.26, F.S.(1)(a)-(b), F.S.

<sup>11</sup> Sec. 322.291(1)(a)3., F.S.

<sup>12</sup> Sec. 316.192(3)(c)2., F.S.

<sup>13</sup> Sec. 316.192(5), F.S.

<sup>14</sup> Sec. 316.193(3)(c)2., F.S.

<sup>15</sup> Sec. 322.34(6)(a)-(b), F.S. In a related offense, if a person knowingly loans a vehicle to a person whose license is suspended, and the borrower causes death or injury, the owner's license is suspended for one year (322.36, F.S.).

**Section 4** Amends s. 318.19, F.S., providing certain rights to victims or next of kin regarding prosecution of offenders causing serious injury or death; requiring prosecutors to consult with victims or next of kin regarding the disposition of cases involving serious injury or death.

**Section 4** Provides an Effective Date of October 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2009, the Roads, Bridges, and Ports Policy Committee reported the bill favorably with no amendments.

On March 27, 2009, the Public Safety & Domestic Security Policy Committee adopted a strike-all amendment that made changes to the bill as follows:

- removes criminal penalties
- if a traffic infraction causes a death or serious bodily injury, the bill requires the offender to complete a minimum 15 hours of community service and an 8 hour driver improvement course
- provides the victim or victim's next of kin are required to be informed, to be present, to be heard, and to be consulted on the disposition of all court actions regarding any traffic infraction resulting in a death or serious bodily injury

On April 14, 2009, the Economic Development & Community Affairs Policy Council adopted a strike-all amendment and reported the bill favorably as a council substitute. The strike-all amendment made technical changes and conformed the bill to its Senate companion.